

An
Bord
Pleanála

Board Order
ABP-313538-22

Planning and Development Acts 2000 to 2021

Planning Authority: Galway County Council

Planning Register Reference Number: 21/2192

Appeal by An Taisce of Tailors Hall, Back Lane, Dublin against the decision made on the 13th day of April, 2022 by Galway County Council to grant subject to conditions a permission to EP Energy Developments Limited care of Ed Barrett Gravis Planning of Denshaw House, 120/121 Baggot Street Lower, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: An Open Cycle Gas Turbine power plant (299 megawatts) and associated infrastructure and buildings. The proposed development will include demolition of existing administration building, gatehouse, workshop, storage buildings (three number) and car parking area and installation of an Open Cycle Gas Turbine (OCGT) unit and associated plant including air intake, stack (40 metres high); main, auxiliary and ancillary transformers; fire wall; acoustic wall; electrical rooms; fin-fan coolers; skids (to include gas skid, distillate fuel skid, compressor cleaning skid, air drier skid, compressed air skid, lube oil skid, CO₂ firefighting skid); propane store; Continuous Emissions Monitoring System (CEMS); fire water tank and pump house; hardstanding maintenance area, secondary fuel storage area [four number bunded distillate fuel storage tanks - each tank circa 20.2 metres high (including hand rail), 10 metres diameter], fuel forwarding building, extension to existing distillate unloading plant [one number new pump house to be installed], fuel forwarding gantry, expanded Above Ground Installation ('AGI') to

facilitate connection to existing gas pipeline, a new 220 kV bay and 220 kV bus section within the existing electricity substation, new administration building, gatehouse and associated car parking (two number spaces), workshop, storage buildings (three number) and car park (52 number spaces), and all associated ancillary development, site works and services including fill, underground pipework and cabling, upgraded wastewater treatment plant, drainage infrastructure, lighting, fencing, internal roadways, vehicle and pedestrian access gates, vehicular ramp, entrance barrier, all at Tynagh Power Station, Derryfrench, Tynagh, Loughrea, County Galway.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

In arising at its decision, the Board had regard to:

- (a) the National Planning Framework Plan 2018-2040,
- (b) the National Development Plan 2021-2030,
- (c) the Climate Action Plan 2021 and the Climate Action Plan 2023,
- (d) the Climate Action and Low Carbon Development (Amendment) Act 2021, amending the Climate Action and Low Carbon Development Act 2015,
- (e) the Policy Statement in the Security of Electricity Supply 2021,
- (f) the National Energy Security Framework 2022,



- (g) the Regional Spatial and Economic Strategy for the Northern and Western Region 2020-2032,
- (h) the policies of the planning authority as set out in the Galway County Development Plan 2022-2028,
- (i) the nature of the receiving environment which comprises an established industrial area and former mine,
- (j) the distance to dwellings or other sensitive receptors,
- (k) the submissions made in connection with the application and appeal,
- (l) the likely consequences for the environment and the likely significant effects of the proposed development on European Sites, and
- (m) the Screening for Appropriate Assessment and Environmental Impact Assessment reports and recommendations of the Inspector,

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises an industrial area and former mine, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development taking account of:

- (a) the transitional nature of the proposed development which will operate as and when needed to ensure security of electricity supply,
- (b) the scale and location of the proposed development within a long established industrial and energy generating site, which occupies a former mining complex,
- (c) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application,
- (d) the Screening for Appropriate Assessment and associated documentation submitted in support of the application,
- (e) the planning authority reports, and the submissions received from the Appellant, Observer and Prescribed Bodies, and
- (f) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development, and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

Reasoned Conclusions on the Significant Effects

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- (i) Negative impacts on climate during the operational phase. The increase in greenhouse gas emissions from the chimney stack would have a negative impact on climate and the achievement of EU and National climate change and carbon emission reduction targets. The impacts would be mitigated in the long-term as a result of the transitional nature of the facility which would operate intermittently for no more than an average of 1,500 hours per annum. In this regard a grant of permission for the proposed development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2023 and, noting in particular section 12.1.4 under the heading to deliver and accelerate a flexible system to support renewables, 'deliver in the order of 2GW of new flexible gas-fired power generation'. Furthermore, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Act 2021.
- (ii) Negative impacts on air and climate during the operational phase. The increase in airborne emissions from the chimney stacks and resulting air quality impacts would be mitigated by adherence to the emission limit levels set by the Environmental Protection Agency Industrial Emission Licence.
- (iii) Negative impacts on human health and population, air and climate, biodiversity and cultural heritage arising from construction activities include noise, dust, traffic emissions and traffic disturbance. These impacts will be mitigated through adherence to best practice construction measures and the implementation of a Construction and Environmental Management Plan and a Waste Management Plan. Noise disturbance from the operation of the facility is not likely to arise given the established industrial location, and the

separation distances between the development and noise sensitive receptors which include surrounding detached dwellinghouses.

- (iv) Negative impacts on hydrology could arise as a result of the release and mobilisation of sediments and historic heavy metal contaminants, accidental spillages of chemicals, hydrocarbons or other contaminants entering watercourses, and mitigation measures are proposed to protect ground and surface water and manage surface water within the site. Discharge of surface water will be directed through the existing storm and foul drainage systems prior to discharge. Impacts will be mitigated by measures outlined within the application and by adherence to the terms and conditions of the Environmental Protection Agency Industrial Emission Licence.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

Conclusions on Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development, would accord with European, national, regional and local planning and related policy, be consistent with the obligations of the Climate Action and Low Carbon (Amendment) Act 2021 that a grant of permission for the proposed development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2023 and, noting in particular section 12.1.4 under the heading to deliver and accelerate a flexible system to support renewables, 'deliver in the order of 2GW of new flexible gas-fired power generation'. In addition, the proposed development would not have an unacceptable impact on the landscape or ecology, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms

of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information received by the planning authority on the 18th day of February 2022 and the 14th day of March 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The mitigation measures identified in the Environmental Impact Assessment Report and other plans and particulars submitted with the planning application, shall be implemented in full by the developer, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and protection of the environment during the construction and operational phases of the proposed development.

3. For the avoidance of doubt:

- (a) The output from the proposed Open Cycle Gas Turbine shall be a maximum of 299 megawatts.
- (b) The operational lifespan the proposed Open Cycle Gas Turbine shall be 25 years, after which the facility shall be decommissioned, and the site reinstated in accordance with condition number 4 below.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

4. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority detailed plans and proposals for the restoration and reinstatement of the entire site following decommissioning of the plant. The restoration works shall be completed within two years of the closure of the plant site or cessation of use for a period or one year or more.

Reason: To ensure the satisfactory restoration of the site.

5. The services of a suitably qualified and experienced Ecological Clerk of Works shall be retained to oversee and supervise the entirety of the construction works, and to provide monthly electronic reports to the planning authority (Planning and Environment Sections) detailing the stage of the works, and compliance with the Environmental Impact Assessment Report and the Construction and Environmental Management Plan mitigation measures.

Reason: In the interest of protecting ecology and wildlife in the area.

6. Unless otherwise agreed in writing with the planning authority, a fixed red obstacle light shall be fitted as close to the top of the main stack as practicable and shall be visible from all angles in azimuth. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of air traffic safety.

7. All plant and machinery used during the works shall be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area, and to prohibit the spread of invasive species.

8. Water supply and drainage arrangements, including the treatment of wastewater, attenuation and disposal of surface water and connection to the existing drainage system, shall comply with the requirements of Irish Water and the planning authority for such works and services as appropriate.

Reason: In the interest of public health and to ensure a proper standard of development.



9. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practices, including noise, vibration and dust management measures; traffic management and protection of roads and bridges; storage of hydrocarbons, chemicals and liquids; site specific testing and monitoring for heavy metal contaminants; and off-site disposal of construction, demolition and contaminated waste, which shall be managed in accordance with an agreed Construction and Demolition Waste Management Plan.

Reason: In the interests of public safety and residential amenity.

10. Prior to commencement of development, a transport management plan for the construction stage shall be submitted to, and agreed in writing with, the planning authority. The traffic management plan shall incorporate details of the road network to be used by construction traffic, including over-sized loads, and detailed arrangements for the protection of bridges, culverts or other structures to be traversed, as may be required. The plan shall also contain details of how the developer intends to engage with and notify the local community in advance of the delivery of oversized loads.

Reason: In the interest of traffic safety.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0700 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: To safeguard the residential amenities of property in the vicinity.

12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of the affected road which may be damaged by the transport of materials to the site (that is, from the junction of the L-4310 local road and the N65 national secondary road to the site entrance), coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory reinstatement of the public road. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory reinstatement of the public road.

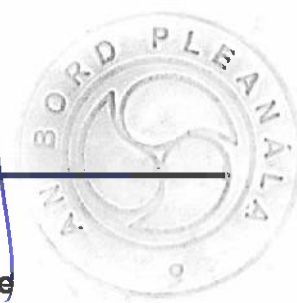
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14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Chris McGarry
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.



Dated this 8th day of February 2023